

## **COMMITTEE ON JOINT SCHOOL BUILDINGS**

**October 16, 2007**

**School Cmte. Members Beaudry,  
Herbert, Gelinas  
Aldermen Thibault, Roy, Long**

**4:45 PM**

**NH Primary Room  
City Hall (3<sup>rd</sup> Floor)**

Chairman Beaudry called the meeting to order.

The Clerk called the roll.

Present: School Committee Members Beaudry and Gelinas ; Aldermen  
Thibault, Roy and Long

Absent: School Committee Member Herbert

Messrs: T. Clougherty, T. Arnold

Chairman Beaudry addressed item 3 of the agenda:

3. Update on various projects as follows:

- a) School Facilities Improvement Project
- b) Memorial High School Sports Complex Facilities
- c) Door and Lock Mechanisms and Fire Codes

Chairman Beaudry stated we have Tim Clougherty here this evening. Welcome.  
No DMJM today?

Mr. Tim Clougherty, Building Maintenance Division, stated no, DMJM wrapped up their operations. They have one person left that's helping us with some of the defective work with the \$1.8 million that was dedicated toward that. But other than that, all of their management personnel have moved on to other projects.

Chairman Beaudry asked can you give us a brief overview and then go into those three areas that were on the agenda?

Mr. Clougherty replied yes. Right now we are working on scoping out basically, trying to turn over to some of my staff the management of some of the problems that we're going to be correcting. Specifically that includes the sound attenuation with the HVAC equipment, some of the deficiencies in the duct work, the life safety issues, the fire dampers, and you'll see down on item c) some of the door locks and fire code issues as well. So we're scoping out those projects right now and we're going to be prioritizing them and making some decisions as to whether we need to bring a designer on board in order to facilitate the solutions identified or whether we can contract those out on our own.

Alderman Long stated just on that DMJM...now we gave them two extensions on the contracts. Did they fully encumber both of those appropriations?

Mr. Clougherty responded they did not.

Alderman Long asked so we had a little savings on that end?

Mr. Clougherty stated we did. And those savings were recognized in the financial report that I forwarded two weeks ago to the Board of Mayor and Aldermen.

Chairman Beaudry stated just a question on that or a comment. The Aldermen got the financial report but that was never forwarded to the School Side. I haven't seen that update, as far as the financial report, and speaking to Mr. Sanders this evening, I guess we had some of the money that was on the OCIP project came back into the contingency fund. That's something, if you can update...

Mr. Clougherty stated yes, I'd be happy to update you. I apologize that that wasn't included as part of the agenda or you weren't copied on it. I was under the impression that the Clerk's office copied all of the committees when something was sent to the Board but perhaps I'm incorrect. As far as the issue that you brought up relative to the owner controlled insurance policy, what we've been calling the OCIP, part of the cash available to us was contingent upon a release by Liberty Mutual of approximately \$750,000 that we were counting on in order to fund the \$1.8 million in improvements, and some of our other outstanding receivables. And we're happy to report that within the past 30 days that has been completed and we have deposited those monies into the project account, so from this point forward we're cash neutral. We do have enough cash to put forward toward the anticipated expenditures.

Chairman Beaudry stated just for my own clarification: We had \$1.8 million set aside after the litigation, and I was under the assumption that there was going to be \$750,000 additional coming into what we would have called the contingency fund. Is that what's happening?

Mr. Clougherty responded it is what's happening but the owner controlled insurance policy required a letter of credit which was roughly \$1.55 million. It was reduced at one point by \$75,000. The account accrued interest over time. The bottom line is right now Liberty Mutual is telling us that they still need to secure \$725,000 in order to underwrite, if you will, any outstanding claims that exist with our owner controlled insurance policy. Based on the cash that we have currently available and our in-house estimate of the \$1.8 million in defective work, we have enough cash on hand to pay our outstanding expenses, our legal fees, our program management expenses, some of the other ancillary, as well as do the \$1.8 million in corrective work, and we'd still have a balance somewhere around \$725,000 at the end of the day, and that's once the balance of the letter of credit is released from Liberty Mutual.

Alderman Long stated just for clarification, the \$750,000 that they released, that's part of the \$1.8 million, correct?

Mr. Clougherty responded you could say that, yes.

Alderman Long stated well that added up to give us the...with whatever else was there...added up to give us the \$1.8 million. And then, what was it, October of '09 or something or '08, whatever the date was, they're going to release the rest of it.

Mr. Clougherty stated the letter of credit expires a year from September 19, 2007, on September 19, 2008, so in August of 2008, we'll be talking with them about how their underwriters feel about their loss sensitivity at that point, and we will be encouraging them to allow us to reduce that to zero. Just for a point of clarification, you mentioned that there was a \$750,000 release. The release was significantly more than the \$750,000 because of accrued interest over the life of the project, with that \$1.5 million on deposit with Citizens Bank. So we were actually able to accrue approximately \$111,000 in unanticipated interest. Unanticipated on my part, at least. I'm sure Finance accounted for it but it ended up being a little bit more. I think the release was somewhere around \$836,000.

Chairman Beaudry asked so the \$836,000, is that inclusive in the \$1.8 million or over and above the \$1.8 million?

Mr. Clougherty stated it's included in the \$1.8 million. We needed that money in order to fund the \$1.8 million in defective work.

Alderman Long stated so, if I may, Mr. Chairman, the remaining that's due to be released in September of 2008 goes where?

Mr. Clougherty stated I think that's a question for our Finance Officer and potentially for our City Solicitor, but I believe that the opinion was that at one point in time it could be used for the purpose of the project as it was originally defined. If not, it would go to pay off debt service.

Chairman Beaudry stated we can move on to a) School Facilities Improvement Project. Are you all done with that? Okay, Memorial High School Sports Complex Facility. We also have a representative from Parks & Recreation here this evening. I don't know if you want him to come forward also or if he can explain it but...

Mr. Clougherty stated I think we should either have Chuck or Tom Arnold come forward. Is Tom Arnold with us?

Chairman Beaudry stated actually why don't we have both of you move up, Chuck and Tom, welcome.

Mr. Tom Arnold, Deputy City Solicitor, stated with respect to the Clem Lemire Field at Memorial, we have sat down with our council on the Gilbane law suit, as he was familiar with the situation. We presently have shipped him materials to review what we have, specifically, the report that was provided by Gilbane, outlining deficiencies in the buildings. We're presently evaluating them with a view toward trying to make some recovery against Gilbane, and at this point I probably couldn't tell you much more than that, other than we're actively exploring getting a recovery for those deficiencies.

Alderman Long stated just for clarification, the settlement did not include this complex, correct?

Mr. Arnold responded that is absolutely correct. The complex was specifically excluded from that settlement agreement for just this purpose.

Chairman Beaudry stated just to refresh people's memories, we had a document that was given to us several months ago from an independent consultant or contractor that was actually hired by Gilbane that said those buildings would have to be demolished to fix the problem. And that's a concern with me, and I know that the person that takes care of that field has some concern because the buildings are still leaking and there's equipment and stuff in there and...when is this actually going to be mitigated where they don't have to worry about water infiltration inside of those buildings that is going to damage the equipment in there?

Mr. Arnold responded I couldn't at this point give you a timetable for when we'd hope that that would be mitigated, other than, as I said, we're actively pursuing trying to get a remedy for those deficiencies. I can't tell you precisely at this point when that will be or even the precise character of what that end remedy will be.

Chairman Beaudry asked is it your impression that we will end up in litigation or actually going to court with this?

Mr. Arnold responded I wouldn't minimize that possibility.

Alderman Long asked is there at least an agreement that there was...that the building wasn't put up to specs?

Mr. Arnold responded I think that there probably is a recognition on Gilbane's part that it wasn't put up to specs. I think what probably the major portion of the controversy will be... Maybe I should just clarify, the independent report supplied by Gilbane, as you know, recommended that the buildings be demolished and rebuilt as a remedy. That's why I say there's some recognition that there is a problem. Gilbane has said that they want to get another report, and as I was about to say, probably the major controversy here is what's going to be necessary to remedy those deficiencies, whether it will be taking the buildings down and rebuilding them or some other remedy. So beyond that I guess I couldn't add much.

Alderman Long stated so the issue at hand would be the remedy.

Mr. Arnold stated yes, the primary issue has got to be decided and monetary costs will flow from that decision, whether it's made between the parties or by a court.

Chairman Beaudry stated but painting the building or putting the outside coating on is not going to be an acceptable remedy to us, correct? I believe we all agreed to that several months ago, that they were willing to paint the outside of the building with some type of waterproofing, which had only a three to five years life span. And that was not acceptable, correct?

Mr. Clougherty stated in my opinion we wouldn't consider that an acceptable remedy.

Alderman Long asked Mr. Chairman, if there is an agreement on a remedy, would it come back to this Committee? Is this Committee authorized to approve the remedy or is that already in the Solicitor's hands?

Mr. Arnold stated it's not in the Solicitor's hands. Quite frankly, I'd have to go back and look at the issue and decide who would approve any future settlement, whether it would be this Committee or maybe the Board of Mayor and Aldermen because it's a Parks and Recreation involved project, maybe Sites and Buildings at the School. I haven't gotten to that point where I've evaluated in detail who would approve an actual settlement if a proposed settlement is reached.

Chairman Beaudry asked are there any other questions on this issue? Let's move on to c) Door and Lock Mechanisms and Fire Codes in our schools. Thank you Chuck and Tom.

Mr. Clougherty stated as we're all aware, we have had some issues with door and lock mechanisms. Maybe not everybody is aware. We've talked about it on a few different occasions over the past four to six months, I'd say. We're in the process still of evaluating those. We're going to continue to evaluate the issues that we have. While we're evaluating, we're prioritizing or taking action. We did do door hardware upgrades at a significant number of locations, so that prioritization and evaluation is a pretty big task. First and foremost what we're looking at is life safety issues. Our fire doors, the magnetic door holders and how those operate is the first thing that we're looking at, and we're actually going to be letting out a contract within a week or so to the tune of about \$140,000 to correct some of those deficiencies. I don't know, Mr. Chairman, was that the emphasis of why this was on the agenda?

Chairman Beaudry responded yes, and then if you can just give us a brief update on...I know we've had some of our buildings inspected. I don't know if you've seen the inspections from the Fire Department, but there's some talk about having to have our buildings sprinkled and I don't know if you've been talking with the Fire Department at all as far as where are we at with that situation.

Mr. Clougherty stated I've seen most of the reports at this point in time, and I have met with the Fire Department. I've met with four or five different individuals from the Fire Department. The major issues are primarily associated with door closers, and we're trying to get some clarification on the code implications there, just trying to understand exactly what's going to be required. There will be a cost associated with that. And also, you mentioned the necessity for sprinklers. There are some schools where the recommendation has been put to install sprinkler systems and we'll be including those in our recommendations for the CIP Committee in the spring. And we'll be also forwarding recommendations; the Fire Department has made recommendations but we'll definitely be including those that are mandated to install sprinkler systems. And there are probably two or three buildings in that situation where we're going to need to put a plan together over the next couple of years, in conjunction with the CIP Committee and the School District in order to bring those schools up to current codes.

Chairman Beaudry stated some of the schools that have lock problems and door problems, if they're associated with the design/build and they need the door closures, if that is the conclusion that they do need door closures, can that come out of that remaining \$750,000 that we had before this project is substantially complete?

Mr. Clougherty stated if there are closures that were installed or were supposed to be installed under the scope of this project, I would say yes. But if it's a code related issue because of a code that was adopted after 2003, after contract inception, I think it may be different, but I think that might also be a question for the Solicitor.

Chairman Beaudry stated one other question: Was the Fire Department involved in the initial specs when we did the design/build, as far as what the scope of the project was going to be and what renovations were going to be done. Did they have input, as far as any of the life safety code issues in the buildings?

Mr. Clougherty responded yes, we met with them and went over fire separation barriers and sprinklering buildings and things like that.

Chairman Beaudry asked so are any of the buildings that we're talking about right now that need these mechanisms and sprinklers, are any of them part of the design/build?

Mr. Clougherty replied every school in the City of Manchester was part of the design/build, outside of McLaughlin, so yes, they were part of the scope. Whether we specifically had discussions about that or not, I'm not sure.

Chairman Beaudry stated well that was my question: Why wasn't it picked up on at the onset? If we just spent \$105 million on our schools, and after the fact we realize that we may have some life safety issues still ongoing, and that was my question: Why wasn't it picked up initially?

Mr. Clougherty stated it's our questions as well when we go through some of the reports.

Chairman Beaudry stated I just have two other issues for other business. I got some calls on, again, and I did report this to Barbara. At the Central Burns Building, on that top floor, apparently it was like 85 degrees last week on those warm days...something about the windows. You can't open windows up there because they were installed for air conditioning. I don't know if they don't open. I haven't gone up to actually look and see what they're talking about but apparently the teachers are pretty upset and there was talk about filing a grievance because the conditions in the classrooms were deplorable this last week.

Mr. Clougherty stated the windows are operable. If there's something wrong with the windows and they need to be fixed, we welcome the opportunity to fix them. It has nothing to do with windows installed because of air conditioning. There's no air conditioning on the third floor of the Burns Building.

Chairman Beaudry asked is that the top floor, the third floor?

Mr. Clougherty stated the fourth floor is the top floor of the building.

Chairman Beaudry stated that's the floor I was told was unbearable, the top floor of the building.

Mr. Clougherty stated the last time I got this complaint, I went through it and walked through it personally that same day. It was 71 degrees in the three classrooms that I walked into, and there was no heat on in any of them. I'm not saying that whoever you're talking to is lying, but again, we welcome the opportunity to fix those problems if and when they arise. But we have not personally seen them. I'm happy...please call me. I'll take a ride over there myself if it's 85 degrees and it's not 85 degrees outside. If it's 85 to 90 degrees outside or even 75 degrees outside, you put 30 kids into a classroom, the potential is there for it to rise up to 85 degrees, and with it not being air conditioned, there's nothing we can do about it. We are ventilating the space; we're bringing in the outside air as much as we can at the lowest temperature that we can, which at 75 degrees outside air temperature is 75 degree air. So it's not going to air condition the space.



Chairman Beaudry stated actually under the Turner Report, if it's a black roof you're probably pumping in 85 to 90 degree air with the ambient temperature coming off the black roof.

Mr. Clougherty stated that's debatable.

Chairman Beaudry stated my last thing is the noise in the classrooms. I know you mentioned about the sound in the classes. Is that still being looked at? Principals that are coming before the Building and Sites Committee now are saying that's one of the main concerns is that classrooms are way too noisy and distracting to the students and the teacher.

Mr. Clougherty stated it is. We know some areas that are particularly egregious. We're walking through each of these schools right now with the reports that we got from at least three different acquisitions and reviewing those. Once we complete that walk through and have a comprehensive understanding on our own, there's a mechanical engineer that we engaged through our legal counsel in anticipation of litigation, that we're going to be sitting down with, talking about recommended solutions, recommended alternatives and potentially engaging a mechanical engineer to design these solutions and implement them.

Chairman Beaudry asked will that come out of that \$1.8 million?

Mr. Clougherty replied it would.

Alderman Long asked the breakdown of the WB Mason, is that being done?

Mr. Clougherty responded I was not requested to put that together. If you want the breakdown of WB Mason, I'm happy to forward that.

Alderman Long asked wasn't that requested at the BMA?

Mr. Clougherty stated I thought that was a request of the...I don't know what the request was. WB Mason charges I can tell you, \$800 some odd thousand. That's for furniture. We've probably got 200,000 square feet of classrooms. They needed to be furnished. And I'm happy to provide you a breakdown for all of that furniture.

Alderman Long stated no, I don't need it.

Alderman Roy stated Alderman Gatsas had concerns over that. I think this Committee knows you spent the money in appropriate places, but if you'd like to just forward something to Alderman Gatsas I think he'd appreciate it.

Mr. Clougherty stated that's not a problem.

Chairman Beaudry stated if there are requests from the Alderman that are germane to the Joint Building and Sites, if a copy of that can be forwarded to the School Side so that we can see it, because some of the things that were talked about this evening we haven't seen it. Whoever is in charge of that, if we can get a copy, that would be appreciated.

There being no further business, on motion of Alderman Thibault, duly seconded by Alderman Long, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee